

FOR THE DISTRICT OF DELAWARE

DALE GUILFOIL,

Plaintiff,

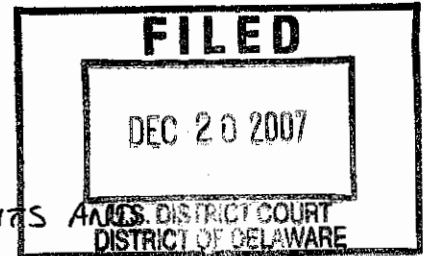
v.

DAVID PIERCE, et al,

Defendant.

C.A. NO. 06-493-GMS

JURY TRIAL REQUESTED



PLAINTIFFS MEMORANDUM OF POINTS AND DISTRICT COURT

AUTHORITIES IN SUPPORT OF HIS MOTION FOR SUMMARY JUDGMENT

1. Plaintiff filed a prisoner civil rights action against defendants David Pierce, James Scarborough and Karl Mazzard of the Delaware Correctional Center for their neglect to address a medical issue.

2. Plaintiff attempted to resolve the problem by writing to James Scarborough and David Pierce.

3. Plaintiff also filed several Grievances in an attempt to resolve the problem in a filed attempt.

4. Plaintiff wrote letters and placed them in a box which is the only way for prisoner's to correspond with the Delaware Correctional employees and if employees do not responded to the prisoner's the prisoner's do not have any prove of an attempt to correspond with them.

5. Defendants neglected to answer the plaintiff and therefore ignored the doctor's orders and by doing so caused the plaintiff to suffer mentally and pyshicallk pain.

6. Plaintiff followed all rules in an attempt to resolve the problem by filing grievances and writing letters to the defendants which the defendants ignored.

7. Defendants refuse to acknowledge or respond to the plaintiff letters and grievances which cause a deliberate indifference.

8. Defendants were notified that the plaintiff had doctor's order for a bottom bunk for medical reason by the medical staff and by the plaintiff but yet no action was taken to correct the problem or provide the plaintiff with proper medical care.

9. Plaintiff submitted several sickcall request asking for the doctor's orders to be forwarded to the defendants and plaintiff was informed by medical staff that a copy of the doctor's order were faxed to the defendants which is standard procedures.

10. Plaintiff filed grievances and wrote letters to the defendants as was suggested by the Grievance officer.

11. The defendants created a policy which affected

medical treatment of the inmates.

### MEMORANDUM OF LAW

The officials knew of the condition and did not respond to it in a reasonable manner. Farmier V. Brennan 511 U.S. 825.

The condition was so obvious that the official must have purposefully ignored it to not know about it. Courts will also consider any complaints or grievances report that plaintiff or other prisoners have filed ... Vance V. Peters, 97 F3d 987.

Prison officials cannot ignore a problem once it is brought to their attention, Spain V. Procunier 600 F2d 189 (1979)

An inmate must rely on prison authorities to treat his medical needs, if the authorities fail to do so those needs will not be met, Estelle V. Gamble 429 U.S. 97, 103 (1976).

Some Courts have held that a serious medical need is "one that has been diagnosed by a physician as mandating treatment or one that is so obvious

that even a lay person would easily recognize the necessity for a doctor's attention. Hill v. DeKalb Reg'l Youth Det. Ctr., 40 F3d 1176, 1187 (11<sup>th</sup> Cir. 1994).

It's the particular risk of harm faced by a prisoner due to the challenged deprivation of care, rather than the severity of the prisoner underlying medical condition, considered in the abstract, that is relevant for Eighth Amendment Purposes." Chance v. Armstrong 143 F. 3d 698.

Courts most often find deliberate indifference when: prison guards or other non-medical officials intentionally deny or delay your access to treatment or when these same non-medical officials interfere with the treatment that your doctor has ordered, Estell v. Gamble 429 U.S. 97 (1976) at 104-105, Meloy v. Bachmeier 302 F3d 845, 849 (8<sup>th</sup> Cir. 2002).

WHEREFORE, for the reasons stated herein, the Plaintiff respectfully request that this court grant summary judgment in his favor.

Dale Guilfoil  
Dale Guilfoil

## CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2007 I mailed by way of United States Postal service a copy of the Plaintiffs Memorandum of Points and Authorities in support of His motion for Summary Judgment to Catherine Damarandi, Deputy Attorney General at 820 N. French Street, 6<sup>th</sup> Floor, Wilmington, DE, 19801.

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